

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

v.

KENNETH BRISSETTE and
TIMOTHY SULLIVAN

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) Case No. 16-CR-10137-LTS
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JOINT STATUS REPORT

Pursuant to the Court's May 2, 2017 Order, the parties jointly submit this Joint Status Report.

A. Anticipated Pretrial Motions

1. Potential New Discovery Motions

On April 4, 2017, the government produced to the defendants a discovery letter (erroneously dated October 6, 2016), along with 177 pages of email communications between the principals of Company A, the putative victim here, and the firm that lobbied the City of Boston on behalf of Company A in connection with the September 2013 event at issue in this case. Shortly after serving this new production, counsel for the government orally informed counsel for Mr. Sullivan that Company A's lobbying firm provided the email communications to the government as part of a voluntary effort to identify and produce documents germane to this case. The government further informed Mr. Sullivan's counsel that, as a result of finding these email communications, both the lobbying firm and Company A decided to conduct a word search of unspecified email stores to identify other relevant communications to be produced to the government and, eventually, the defendants.

On May 9, the date of this Report, the government provided the defendants a second round of documents from Company A's lobbying firm that have not yet been reviewed. Notably, however, the 177-pages of email communications between Company A's principals and agents that were produced on April 4, 2017 were highly relevant to this case.

The government has not yet received or provided the documents expected from Company A, but anticipates that such documents will be delivered to defense counsel this week

Given the late identification of these communications and the ongoing efforts to gather what may be a significant amount of additional material, defendants will need time to review the new material and conduct whatever further investigations, discovery inquiries and/or motion practice are necessary.

2. Anticipated Pretrial Motions

Mr. Brissette currently anticipates filing motions *in limine* to exclude irrelevant and extraneous matters, including the matters identified in ¶¶ 8 through 15 of the Superseding Indictment. Mr. Sullivan currently anticipates that he will move to sever his trial from Mr. Brissette. Mr. Sullivan is also contemplating a motion for disclosure of grand jury materials. Because the Court's rulings on those motions may have a significant effect on quantum of evidence admitted (and thus the length of the trial), the Defendants propose that the Court set a date for these and any other "major" motions *in limine* well in advance of the trial date as set forth below.

2. Proposed Pretrial Schedule

The government currently anticipates that its case in chief will last approximately two weeks. Additionally, both counsel for the government are scheduled to begin a trial before Judge Woodlock on July 31, 2017, and at least one counsel for the government will be out of the

country between November 21 and 27. The government seeks an October 2016 or January 2017 trial date. The government leaves to the Court's discretion the schedule for pretrial proceedings, except that the government objects to the defendants' proposal that motions to sever and for grand jury materials be filed just over a month before trial; such motions should be filed well in advance of any pretrial proceedings. Given the anticipated length of trial, the government objects to the defendants' proposed December 11 trial date.

The defendants currently anticipate that their defense of the matter as currently configured will also last approximately two weeks. Counsel for Mr. Brissette is scheduled to begin a three week trial before Judge Woodlock on October 23, 2017 and would be unavailable until November 20, 2017 at the earliest. The Defendants seek a trial beginning sometime after November 20, 2017 and propose the following pretrial schedule:

- Thursday, November 9, 2017 – Witness and exhibit lists exchanged by the parties
- Wednesday, November 15, 2017 – Severance, grand jury related motions and major motions *in limine* due
- Wednesday, November 22, 2017 – Oppositions to defendants' motions due
- Week of November 27, 2017 – Hearing on defendants' motions
- December 7, 2017 – Final pretrial conference
- December 11, 2017 – Jury selection and trial begins

Respectfully submitted,

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Dated: May 9, 2017

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as nonregistered participants on May 9, 2017.

/s/Thomas R. Kiley